

ESTTA Tracking number: **ESTTA373723**

Filing date: **10/18/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92052927
Party	Defendant Kent G. Andereson
Correspondence Address	KENT G ANDERSON FUTURE VISIONARIES 925 N. GRIFFIN BISMARCK, ND 58501 UNITED STATES
Submission	Answer
Filer's Name	Dwayne L. Bentley Attorney for Anderson
Filer's e-mail	dlb@dlbentleylawgp.com
Signature	/Dwayne L. Bentley/
Date	10/18/2010
Attachments	Answer.pdf ( 7 pages )(524737 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

JOSEPH E. NEWGARDEN III,	)	
	)	
Petitioner,	)	
	)	Cancellation No. 92052927
vs.	)	Mark: TOMORROW
	)	Registration No.: 3,731,690
Kent G. Anderson,	)	
	)	
Respondent.	)	

Commissioner for Trademark  
Trademark Trial and Appeal Board  
PO Box 1451  
Alexandria, VA 22313-1451

**ANSWER TO PETITION TO CANCEL**

**Change of Correspondence Address**

Dwayne L. Bentley, Esq.  
DL BENTLEY LAW GROUP PLLC  
16 Court Street, Suite 2007  
Brooklyn, NY 11241

Respondent Kent Anderson ("Respondent") by its undersigned attorney, as and for its  
Answer to the Petition to Cancel alleges as follows:

1. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in paragraph 1 and therefore denies.
2. Admits the allegations set forth in paragraph 2.
3. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in paragraph 3 and therefore denies.

4. Admits the allegations set forth in paragraph 4 to the extent of filing a trademark application to register the mark "TOMORROW" as to classes 35, 41 and 43 not to the extent of filing for hundreds of unrelated services.

5. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in paragraph 5 and therefore denies.

6. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in paragraph 6 and therefore denies.

7. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in paragraph 7 and therefore denies.

8. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in paragraph 8 and therefore denies.

9. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in paragraph 9 and therefore denies.

10. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in paragraph 10 and therefore denies.

11. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in paragraph 11 and therefore denies.

12. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in paragraph 12 and therefore denies.

13. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in paragraph 13 and therefore denies.

14. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in paragraph 14 and therefore denies.

15. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in paragraph 15 and therefore denies.

16. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in paragraph 16 and therefore denies.

17. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in paragraph 17 and therefore denies.

18. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in paragraph <sup>18</sup>~~7~~ and therefore denies.

19. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in paragraph 19 and therefore denies.

20. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in paragraph 20 and therefore denies.

21. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in paragraph 21 and therefore denies.

22. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in paragraph 22 and therefore denies.

23. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in paragraph 23 and therefore denies.

24. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in paragraph 24 and therefore denies.

25. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in paragraph 25 and therefore denies.

26. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in paragraph 26 and therefore denies.

27. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in paragraph 27 and therefore denies.

28. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in paragraph 28 and therefore denies.

29. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in paragraph 29 and therefore denies.

30. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in paragraph 30 and therefore denies.

31. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in paragraph 31 and therefore denies.

32. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in paragraph 32 and therefore denies.

33. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in paragraph 33 and therefore denies.

34. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in paragraph 34 and therefore denies.

35. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in paragraph 35 and therefore denies.

36. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in paragraph 36 and therefore denies.



37. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in paragraph 37 and therefore denies.

**AS AND FOR A**  
**FIRST AFFIRMATIVE DEFENSE**

38. Petitioner's Petition to Cancel fails to state any claim upon which relief may be granted.

**AS AND FOR A**  
**SECOND AFFIRMATIVE DEFENSE**

39. Petitioner's claims are barred by the doctrine of waiver and estoppel.

**AS AND FOR A**  
**THIRD AFFIRMATIVE DEFENSE**

40. Petitioner lacks standing to initiate the cancellation proceeding, as Petitioner does not have any rights in and to the mark TOMORROW, has not made any use of the Mark TOMORROW, and/or did not and/or does not now have a bona fide intent to use the mark TOMORROW in commerce.

WHEREFORE, Respondent respectfully requests that the Board dismiss the cancellation proceeding in its entirety.

Dated: October 18, 2010

Respectfully submitted,



Dwayne L. Bentley  
DL BENTLEY LAW GROUP PLLC  
Attorney for Respondent  
16 Court Street, Suite 2007  
Brooklyn, NY 11241  
Phone: (718)797-5350  
Fax: (718) 852-3309

#### **CERTIFICATE OF TRANSMITTAL**


I hereby certify that a true copy of the foregoing ANSWER TO PETITION TO CANCEL is being filed electronically with the TTAB via ESTTA on this day, October 18, 2010.



Dwayne L. Bentley

### CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing ANSWER TO PETITION TO CANCEL was served on the Petitioner this 18th day of October 2010 by sending same via First Class Mail postage prepaid to:

  
Dwayne L. Bentley

Mark E. Stamelos  
KING & BALLOW  
315 Union Street, Suite 1100  
Nashville, TN 37201